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FILED
Clerk
District Court

APR 11 2019

for the Northern Mariana Islands
By _____
(Deputy Clerk)

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN MARIANA ISLANDS

12
13 R. ALEXANDER ACOSTA,
14 Secretary of Labor,
15 United States Department of Labor,
16 Plaintiff,
17 v.
18 IMPERIAL PACIFIC INTERNATIONAL
19 HOLDINGS, LTD.; IMPERIAL PACIFIC
INTERNATIONAL (CNMI), LLC,
Defendants.

Case No. **CV 19-00007**

COMPLAINT FOR INJUNCTIVE
RELIEF AND TO RECOVER
AMOUNTS DUE UNDER THE FAIR
LABOR STANDARDS ACT

1 Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (the
 2 "Secretary") brings this action to enjoin Defendants Imperial Pacific International Holdings, Ltd., and
 3 Imperial Pacific International (CNMI), LLC, (collectively "IPI") from violating provisions of Sections
 4 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended ("FLSA"), 29 U.S.C. §§
 5 215(a)(2) and 215(a)(5), and to recover amounts owed under the FLSA to employees listed by name in
 6 the attached Exhibit A, for the period from January 22, 2016 through December 19, 2017 (the
 7 "Investigation Period").

8 **JURISDICTION AND VENUE**

9 1. This Court has subject matter jurisdiction of this action under Section 17 of the FLSA, 29
 10 U.S.C. §217; this Court also has subject matter jurisdiction of this action under 28 U.S.C. §1331 (federal
 11 question) and §1345 (United States as Plaintiff).

12 2. Venue lies in this District pursuant to 28 U.S.C. § 1391(b), as a substantial part of the
 13 events giving rise to the claim occurred within this District and one or more Defendants reside within
 14 this District.

15 **DEFENDANTS**

16 3. Defendant Imperial Pacific International Holdings, Ltd., is and at all relevant times has
 17 been an investment holding company based in Hong Kong and is listed on the Hong Kong Stock
 18 Exchange. Imperial Pacific International Holdings, Ltd., has an office and place of business at the
 19 Imperial Pacific Resort Hotel and Casino in Saipan, Northern Mariana Islands, within the jurisdiction of
 20 this Court.

21 4. Defendant Imperial Pacific International (CNMI), LLC, is and at all relevant times has
 22 been an CNMI Limited Liability Company, a subsidiary of Imperial Pacific International Holdings, LTD
 23 and has an office and place of business at Imperial Pacific Resort Hotel and Casino, Saipan, Northern
 24 Mariana Islands, within the jurisdiction of this Court. Imperial Pacific International (CNMI), LLC is a
 25 resort, hotel and casino operator.

26 5. The activities of Defendants constitute, and at all times material hereto have constituted,

1 related activities performed through unified operation or common control for a common business
2 purpose; and are, and at all times material hereto have been, an "enterprise" as defined in FLSA § 3(r),
3 29 U.S.C. § 203(r).

4 6. The aforesaid enterprise has, and at all times material hereto has had, employees engaged
5 in commerce or in the production of goods for commerce, or in handling, selling or otherwise working
6 on goods or materials which have been moved in or produced for commerce. Said enterprise has, and at
7 all times material hereto has had, an annual gross volume of sales made or business done (exclusive of
8 any excise taxes at the retail level, if any, that were separately stated) of no less than \$500,000.00; and
9 said enterprise constitutes, and at all times material hereto has constituted, an "enterprise engaged in
10 commerce or in the production of goods for commerce" as defined in FLSA § 3(s), 29 U.S.C. § 203(s).

VIOLATIONS OF THE FLSA

12 7. IPI is developing Imperial Pacific Resort Hotel and Casino in Garapan, Saipan ("Casino
13 Construction Project"). IPI hired construction contractors to build the project.

14 8. The Secretary conducted an investigation of the Casino Construction Project covering the
15 periods of January 22, 2016 to December 19, 2017. The investigation revealed violations of the FLSA
16 caused by IPI's construction contractors' failure to pay overtime and minimum wages, as well as
17 maintain records required by the FLSA.

18 9. IPI had economic control over the Casino Construction Project and its contractors'
19 construction workers on the project, making it an employer of those construction workers for purposes
20 of the FLSA.

21 10. As a result of IPI's contractors paying employees an hourly rate below the required
22 federal minimum wage, Defendants have violated the provisions of Sections 6 and 15(a)(2) of the
23 FLSA, 29 U.S.C. § 206 and § 215(a)(2).

24 11. As a result of IPI's contractors failure to pay employees at a rate of time and one half the
25 employees' regular rate for hours worked over 40 in a workweek, Defendants have violated the
26 provisions of Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. § 207 and § 215(a)(2).

1 12. As a result of IPI's contractors failure to maintain, keep, and preserve records of
2 employees and of the wages, hours, and other conditions and practices of employment maintained, as
3 prescribed by the regulations promulgated by the Secretary pursuant to the authority granted in the
4 FLSA and published in the Federal Register and known as Title 29, Code of Federal Regulations, Part
5 516, Defendants have violated the provisions of Sections 11(c) and 15(a)(5) of the FLSA, 29 U.S.C.
6 § 211(c) and § 215(a)(5).

PRAYER FOR RELIEF

8 WHEREFORE, cause having been shown, the Secretary prays for a judgment against Defendants
9 as follows:

10 A. For an Order pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, permanently
11 enjoining and restraining Defendants, their officers, agents, servants, and employees, and those persons
12 in active concert or participation with them, from prospectively violating the provisions of Sections
13 15(a)(2) and 15(a)(5) of the FLSA, 29 U.S.C. §§ 215(a)(2) and 215(a)(5); and

14 B. For an Order:

15 i. pursuant to FLSA § 16(c), 29 U.S.C. § 216(c), finding Defendants liable for any
16 unpaid minimum wage and overtime compensation during the relevant time
17 period that may be found by the Court to be due under the FLSA, plus an
18 additional amount as and for liquidated damages, equal to any back wages found
19 to have accrued under the FLSA, to former employees of Defendants, including,
20 at a minimum, the persons listed by name on the attached Exhibit A; or
21 ii. in any instances where liquidated damages are not awarded herein, restraining,
22 pursuant to FLSA § 17, 29 U.S.C. § 217, Defendants, their officers, agents,
23 servants and employees and all persons in active concert or participation with
24 them, from continuing to withhold the payment of any unpaid minimum wage and
25 overtime compensation that may be found by this Court to have accrued under the
26 FLSA to former employees of Defendants, including, at a minimum, the persons

listed by name on the attached Exhibit A, plus pre-judgment interest thereon; and,

C. Awarding the Secretary of Labor the costs of this action; and,

D. Awarding the Secretary such further legal and equitable relief as may be deemed

4 appropriate.

Respectfully submitted,

Dated: April 9, 2019

KATE S. O'SCANNLAIN
Solicitor of Labor

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/s/ Cheryl L. Adams

/s/ Boris Orlov

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